

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DR. GERALD FINKEL, as Chairman of the Joint :
Industry Board of the Electrical Industry, :

Plaintiff, :

-against- :

AMPUL ELECTRIC, INC., :

Defendant. :

ORDER

10-CV-3519 (ENV) (CLP)

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VITALIANO, D.J.

Plaintiff Dr. Gerald Finkel brought this action, in his capacity as Chairman of the Joint Industry Board of the Electrical Industry, against defendant Ampul Electric, Inc., pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq. (“ERISA”). Plaintiff alleges that defendant has failed to pay contributions to employee benefit plans established and maintained pursuant to collective bargaining agreements with Local Union No. 3 of the International Brotherhood of Electrical Workers, AFL-CIO.

Plaintiff filed the complaint on August 2, 2010. Defendant was served eight days later, on August 10. After defendant failed to appear or otherwise respond to the complaint, plaintiff moved for an entry of default on October 26, 2010, and for default judgment on November 3, 2010. On January 31, 2011, the Court granted plaintiff’s motion for default judgment and referred this action to Magistrate Judge Cheryl L. Pollak to conduct an inquest.

Following a review of the relevant submissions, Magistrate Judge Pollak issued a Report and Recommendation (“R&R”) on August 24, 2011, recommending that plaintiff be awarded

\$174,166.17 for unpaid contributions to the funds; \$18,226.27 in interest on the unpaid and late-paid contributions; \$16,190.78 in liquidated damages; \$5,888.00 in attorney's fees; and \$841.62 in costs, for a total amount of \$215,312.84. No objections to Judge Pollak's R&R have been timely filed.

In reviewing a report and recommendation, the court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Moreover, in order to accept a magistrate judge's report and recommendation where no timely objection has been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

After careful review of all the evidence in the record below, the Court finds Magistrate Judge Pollak's R&R to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. Accordingly, for the reasons stated in the R&R, plaintiffs are awarded \$215,312.84, including \$174,166.17 for unpaid contributions to the funds; \$18,226.27 in interest on the unpaid and late-paid contributions; \$16,190.78 in liquidated damages; \$5,888.00 in attorney's fees; and \$841.62 in costs.

The Clerk is directed to enter Judgment and to close this case.

SO ORDERED.

Dated: Brooklyn, New York
September 19, 2011

s/ENV

ERIC N. VITALIANO
U.S.D.J.